THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.24465 OF 2005

Dt.16.11.2005

Between:

M/s.Lakshmi Narayana Rice Mill, rep

By its Proprietor, Bollu Bapi Raju

… Petitioner

And

Assistant Divisional Engineer (Operation),

APEPDCL, Tuni, E.G.District and another. … Respondents

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

The petitioner questions the provisional assessment order dated 31.10.2005 in provisionally assessing the alleged pilferage of energy amounting to Rs.47,678/- and in demanding to pay half of the said amount. It is stated that while provisionally assessing the pilferage of energy charges the petitioner was directed to submit representation, if any, within one month and even before the receipt of the explanation the pilferage charges is estimated at Rs.47,678/- and directed to pay half of the said amount for reconnection. It is stated that under Section 126 of the Electricity Act, 2003 after making provisional assessment, the same shall be served upon the consumer calling for objections and after considering the objections

final order has to be passed. It is stated that even before passing of the final orders there is no power to demand to pay half of the estimated value and also for disconnection of power supply.

It is brought to my notice the judgment of the Division Bench of this Court in W.A.Nos.452 and 477 of 2004 dated 11.3.2004 in the case of *M/s.Mallikarjuna Polishing Industries, rep. by its Proprietor, Rajesh Kumar Jain v., The Chief Managing Director, A.P.Transco, and others* wherein the said Writ Appeals were allowed setting aside the similar order of provisional assessment with a direction to restore the power supply and the concerned authority shall pass final order.

Having regard to the facts and circumstances of the case, the writ petition is allowed setting aside the impugned order directing the respondents to restore the power supply to the petitioner forthwith. The petitioner is also directed to file explanation within seven days from the date of receipt copy of this order and after filing of such explanation, the concerned authority shall pass final order after giving reasonable opportunity to the petitioner so as to enable the petitioner to avail remedies available to him for filing appeal before the appellate authority.

The writ petition is allowed accordingly. No costs.

(V.ESWARAIAH, J.)

16.11.2005

Note: Issue copy by tomorrow.

B.O.

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